MULTIMEDIA UNIVERSITY

STUDENT ID NO

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

# MULTIMEDIA UNIVERSITY

# FINAL EXAMINATION

**TRIMESTER 1, 2017/2018**

## BBL 3614 – COMPANY LAW AND SECRETARIAL PRACTICE

(All sections / Groups)

28 OCTOBER 2017
9:00 A.M. – 12:00 P.M.
(3 Hours)

---

**INSTRUCTIONS TO STUDENTS**

1. This question paper consists of FIVE **(5)** printed pages (including cover page) with FOUR (4) Questions.

2. Answer **ALL** questions. All questions carry equal marks and the distribution of the marks for each question is given.

3. Please write your answers in the answer booklet provided

## QUESTION 1

(a) Will, Chill and Mark are the only shareholders and directors of Ribena Sdn. Bhd. Mark holds 28 per cent of the shares and Will and Chill each hold 36 per cent. Recently, the relationship between Mark and the other two broke down. Mark has moved to Sabah. He is no longer actively involved in the company's management. Will and Chill called a general meeting to be held at Will's beach house at Pulau Besar, Johor and they proposed resolution to remove Mark from the Board. The notice of meeting was sent to Mark but it was delayed in the post and did not reach him until two days before the meeting. Mark was unable to get a last minute flight ticket from Sabah to Pulau Besar and therefore, he could not attend the meeting. Advise Mark.

**(10 Marks)**

(b) Yasmin Sdn. Bhd. is a company providing internet services. Leah, the managing director of Yasmin Sdn. Bhd., was involved in negotiating an internet supply contract on behalf of Yasmin Sdn. Bhd. with Otarah Sdn. Bhd. Otarah Sdn. Bhd. broke off the negotiation with Yasmin Sdn. Bhd. because Otarah Ltd. discovered that Yasmin Sdn. Bhd. was supplying internet services to Cedia Sdn. Bhd., one of Otarah Sdn. Bhd's biggest competitors.

Otarah Sdn. Bhd. then contacted Leah at her office and offered her the internet supply contract. Leah resigned her position as managing director of Yasmin Sdn. Bhd. She then incorporated a company, Lisa Sdn. Bhd. and took the contract for her company, Lisa Sdn. Bhd. Lisa Sdn. Bhd. made a huge profit from the contract.

Makela, a director in Yasmin Sdn. Bhd., agreed with Avisha Sdn. Bhd. to buy luxury office furnitures from Avisha Sdn. Bhd., although there was no resolution passed by the board of directors of Yasmin Sdn. Bhd. to make the purchase. Makela is a majority shareholder in Avisha Sdn. Bhd. She used her voting power to pass a resolution exonerating her from any possible liability for her action.

Advise Yasmin Sdn Bhd.

**(15 Marks)**

**(Total: 25 Marks)**

**Continued...**

## QUESTION 2

(a) In this case, the Great Stars Sdn Bhd had made an agreement with Bagus Railway Constructions Sdn Bhd, who were contractors, to construct part of the railway. The company, as is common in railway construction contracts, retained a certain percentage of the amounts for which their engineer had certified completion, since Bagus Railway Construction were to maintain the line for a period of time. The retention money was payable to the contractors at the end of this period. The contractors had applied to the banker, Lucky Bank Bhd, for a loan and had given them a letter as a security purported to assign to them the retention money of RM50,000 under the contract.

The banker had then written to Sharleen, who is the secretary of Bagus Railway Constructions Sdn Bhd, for the confirmation that RM50,000 was held and the required confirmation had been given. When Lucky Bank Bhd were not paid by the contractors, they had claimed the retention money. They then discovered that only RM20,000 was held as retention money, despite the written assurances of the Sharleen. Meanwhile, Sharleen entered into contract with Aman Gegar Sdn Bh on behalf of the company to purchase some construction materials.

Advise Bagus Railway Constructions Sdn Bhd whether their company secretary has the authority to make such confirmation to Lucky Bank Bhd and to enter into contract with Aman Gegar Sdn Bhd?

**(13 marks)**

(b) According to a guidance note published by Institute of Chartered Secretaries and Administrators in United Kingdom, the most effective company secretary is "one who is regarded by the board as its trusted adviser and who keeps under review legislative, regulatory and governance developments that may impact the company and ensures that the board is appropriately briefed on them; wins the confidence of and acts as a confidential sounding board to the chairman and other directors on issues of concern; and provides, where appropriate, a discreet but challenging voice in relation to board deliberations and decision making, drawing in particular".

Based on the above quote, discuss the following duties of company secretary:

(i) Duties towards Shareholders and Share Capital

**(5 Marks)**

**Continued...**

(ii) Duties in relation to Company's meetings

**(7 Marks)**

**(Total: 25 Marks)**

## QUESTION 3

(a) In 2016, Jaya Consultings Sdn Bhd, reported on the annual financial statements of Invictus Sdn Bhd for the year ended 31 October 2016. Stock had been valued at net realisable value of RM230,000 instead of at cost of RM110,000 resulting in overstated income and balance sheet figures. The auditors were aware that Invictus Sdn Bhd was in financial difficulties and actively seeking financial assistance. After seeing the accounts, Bagus Sdn Bhd decided to take over the company. They then were taken aback when they discovered about the true financial statement. Hence, Bagus Sdn Bhd intends to take legal action against Jaya Consultings Sdn Bhd for negligent misstatement.
Advise Bagus Sdn Bhd.

**(15 Marks)**

(b) Explain the procedures for removal of auditors. Support your answer with legal provisions.

**(5 Marks)**

(c) Discuss the procedures for resignation of company secretary.

**(5 Marks)**

**(Total: 25 Marks)**

## QUESTION 4 (25 MARKS)

(a) Michael, Joe and Peter are directors and shareholders of New Cyber Property Developments Sdn. Bhd. (NCP), a property development company, which owns and operates a coffee house. Michael and Joe are brothers. Joe and Peter are friends and partners in an accounting firm. Michael is an unemployed artist and sole parent of three young children. The total number of issued shares in NCP is 6000 ordinary shares. Each shareholder has 2000 shares. All the shares are fully paid.

**Continued...**

NCP has been very successful but not paid any dividends to its members for the last two years. Profits have instead been invested in further development projects. Michael's wife has recently died and he is very short of money to look after his family. He approaches Joe and Peter and asks them to consider whether NCP could begin to pay dividends again to its members. Joe and Peter refused to consider Michael's request as it would upset the "long-term goals of NCP". Michael is upset by this response and announces that he wants to sell his shares. Joe and Peter refuse to buy him out and demand that Michael resigns as a director because he has lost his objectivity. Michael resigns reluctantly. He asks to see NCP's most recent set of financial statements. Joe and Peter refuse to provide the information. Michael discovers accidently that NCP has been paying large "management fees" to Joe and Peter's accounting firm. Michael consults you and he wants to know:

(i) What action should he bring against Joe and Peter? What factors should he take into account in making this decision?

**(15 marks)**

(ii) What remedies should he seek?

**(5 Marks)**

(b) Explain the differences between a fixed and a floating charge.

**(5 Marks)**

**(Total: 25 Marks)**

**End of Paper**